

US DISTRICT COURT FOR MASSACHUSETTS

Dr. SHIVA AYYADURAI,)
Petitioner,)
)
v.)
)
WILLIAM F. GALVIN,)
in his official capacity as)
Secretary of State,)
CHARLES D. BAKER)
in his official capacity as)
Governor of Massachusetts,)
)
Respondents.)

Case No. 1:20-CV-12080-MLW

MOTION FOR JUDICIAL NOTICE

On February 5, 2021, Justice Delconte of the Supreme Court of New York sitting in Oswego County, issued a final order (Dkt # 230) in a contested election case, *Tenney v. Oswego County Board of Electors et al and Brindisi*, EFC-2020-1376. See Exhibit 1. The *Tenney* court ruled that per the Federal Contested Elections Act mere certification of the election by the Oswego Board of Electors did not make the litigation moot. The *Tenney* court ruled so because a higher court could indeed order decertification and recertification of the result after a manual hand count of the paper ballots is completed, as could the House of Representatives itself.

This supports the argument and facts laid by this Plaintiff before this court and contradicts the Defendants' consciously false motion to dismiss on the basis of mootness and jurisdiction.

The *Tenney* court issued this order after considering the motion filed by Brindisi, ably represented by the prominent law firm Perkins Coie, which brought to the court's attention serious concerns with the way electronic vote tabulation resulted in a need for human adjudication of the scanned ballot images. See [Exhibit 2](#). This Plaintiff presented this court an

affidavit and complaint documenting that the use of electronic tabulation machines perforce creates a set of digital ballot images that must be adjudicated by humans and raised the concern that, based on Tassinari's perjurious affidavit, all those ballots set aside by the machines to await human adjudication were then simply discarded, a serious irregularity that implicates fundamental constitutional rights and deserves public examination in Federal court.

In addition, the *Tenney* court was reliably informed by Perkins Coie of other errors associated with the electronic tabulation of votes that cast serious doubt upon the integrity of the election and perforce required a manual hand count of the paper ballots cast. The *Tenney* court also was highly critical of the election directors violating numerous laws and rules that pointed to numerous irregularities. This finding must be contrasted to Tassinari's affidavit that claimed – without any documentary support – all was well in the entire state of Massachusetts, nothing to see here and move along now. It bears repeating that Plaintiff won by 10 points in hand-counted Franklin County but allegedly lost 60-40 in all areas that used electronic tabulation.

The Plaintiff, pro se, respectfully submits this Motion, based on his understanding of the rules of civil procedure, so that this court may take judicial notice of the attached order and motion, pursuant to F.R.Evid. 201(b)(2), (The court may judicially notice a fact that is not subject to reasonable dispute because it: can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.) and 201(c)(2), (The Court [...] must take judicial notice if a party requests it and the court is supplied with the necessary information.), as well as F.R.Evid. 201(d), (The Court may take judicial notice at any stage of the proceeding.)

Respectfully submitted under the pains and penalties of perjury,

/s/ Dr. Shiva Ayyadurai

Dr. Shiva Ayyadurai

Plaintiff, *pro se*

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CERTIFICATE OF SERVICE

Plaintiff certifies that he served this motion upon Defendants via counsel via ECF.

Respectfully submitted under the pains and penalties of perjury,

/s/ Dr. Shiva Ayyadurai

Date: February 9, 2021

Dr. Shiva Ayyadurai
Plaintiff, *pro se*
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CERTIFICATE OF CONFERRAL PER L.R. 7.1

Plaintiff certifies that he conferred with counsel Adam Hornstine regarding this motion for judicial notice and was informed that Defendants had no objection.

Respectfully submitted under the pains and penalties of perjury,

/s/ Dr. Shiva Ayyadurai

Date: February 9, 2021

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